

## REMARKS

### The Invention

The present invention relates to a method and apparatus for dynamically creating group addresses for facilitating communications among a group of users. More specifically, the present invention provides for methods and an apparatus for facilitating dynamic group creation for push-to-talk over Cellular (PoC) group communication sessions, instant messaging sessions, chat, and other communications. In one embodiment, the method comprises receiving at least one rule defining a member of the dynamic group in association with a group address and populating the dynamic group with members from the mobile stations determined in accordance with the at least one rule. Rules may be defined with reference to presence and/or location information available for the mobile stations. Such information may be published on behalf of the stations to one or more servers adapted to identify mobile stations matching the rules. The method may comprise subscribing to the servers to obtain the matching mobile stations with which to populate dynamic group addresses. These and other aspects, including one or more method, server, mobile station, and computer program product, will be apparent to those of ordinary skill in the art.

### Status of the Claims

Claims 65-117 are pending in the application.

Claims 65-71, 74, 75, 79-81, 83, 84, 86, 87, 94-100, 103-110, 113, 114, and 116 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Torvinen* (U.S. Patent Publication No. 2005/0113123) in view of *Fraccaroli* (U.S. Patent Publication No. 2004/0002348).

Claims 72 and 73 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Torvinen* (U.S. Patent Publication No. 2005/0113123) in view of *Fraccaroli* (U.S. Patent Publication No. 2004/0002348) and further in view of *Amir* (WO 2001/97539).

Claims 76-78 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Torvinen* (U.S. Patent Publication No. 2005/0113123) in view of *Fraccaroli* (U.S. Patent Publication No. 2004/0002348) and further in view of *Griffin et al.* (U.S. Patent No. 7,072,941).

Claim 85 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Torvinen* (U.S. Patent Publication No. 2005/0113123) in view of *Fraccaroli* (U.S. Patent Publication No. 2004/0002348) and further in view of *Laiho* (U.S. Patent No. 6,097,942).

Claim 86 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Torvinen* (U.S. Patent Publication No. 2005/0113123) in view of *Fraccaroli* (U.S. Patent Publication No. 2004/0002348) and further in view of *Chandhok et al.* (U.S. Patent Publication No. 2004/0198376).

Claims 89-92 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Torvinen* (U.S. Patent Publication No. 2005/0113123) in view of *Fraccaroli* (U.S. Patent Publication No. 2004/0002348) and further in view of *Leigh et al.* (U.S. Patent No. 5,535,426).

Claim 93 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Torvinen* (U.S. Patent Publication No. 2005/0113123) in view of *Fraccaroli* (U.S. Patent Publication No. 2004/0002348) and further in view of *Requena* (U.S. Patent Publication No. 2002/0126701).

Claims 94-102 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Torvinen* (U.S. Patent Publication No. 2005/0113123) in view of *Fraccaroli* (U.S. Patent Publication No. 2004/0002348).

Claims 103-112 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Torvinen* (U.S. Patent Publication No. 2005/0113123) in view of *Fraccaroli* (U.S. Patent Publication No. 2004/0002348) and further in view of *Dorot* (WO 2001/097539).

#### Summary of Argument

In the Response submitted September 14, 2007, the Applicants provided a detailed factual and legal argument outlining how the Examiner has failed to provide a *prima facie* obviousness rejection with regards to the pending claims. In summary, the Applicants argued:

1. *Fraccaroli* is non-analogous art that does not disclose what the Examiner contends it does. With respect, Paragraph 0005 of *Fraccaroli* does not teach or suggest what the Examiner states. Paragraph 0005 does not discuss a method of any sort for creating and managing a group of mobile stations for a communication session. Paragraph 0005 neither mentions a communications network, nor discusses publishing information about one or more particular users of respective mobile stations to the communications network.
2. The Examiner has failed to provide a proper obviousness rejection under 35 U.S.C. § 103(a). The Examiner does not provide any motivation beyond a conclusory sentence for each rejection as to why one skilled in the art would be motivated to modify the teachings of *Torvinen* with the teachings of *Fraccaroli*. In fact, in the face of prior art references that explicitly teach away from each other, the Examiner merely identifies selected elements of the present claims and states these elements may be combined, as forbidden

by the law laid out in *KSR International*. Further, *Fraccaroli* and *Torvinen* are non-analogous references to each other and are not properly combinable to support a 35 U.S.C. § 103(a) rejection.

3. Even if properly combinable, *Fraccaroli* fails to cure the deficiencies of *Torvinen*.

With regard to the teaching of *Fraccaroli*, the Examiner simply stated, again, that *Fraccaroli* is relied upon for “publishing information about one or more particular users of respective mobile stations to the communication network.” December 12, 2007 Office Action at 3. Rather than citing Paragraph 0005 as in the June 18, 2007 Office Action, the Examiner now points to Paragraph 0056, to support this assertion. However, Paragraph 0056 merely states that:

In an alternative embodiment, the servers 106 can be deleted and the respective matching engines 107 can be associated with server 109 instead of with servers 106. This embodiment expands the range of a single matching engine so that it can be, for example, national or international in range and also avoids the need to install separate servers at each HLR 105. In such an embodiment, each HLR 105 checks the USER ID of each user in its service areas 103 and forwards the USER ID to server 109 where matching is to be performed for that USER ID. Such an embodiment is optimal for a matching service for customers who frequently travel to different cities or countries and wish to be matched with others in that city or country who have similar interests. Depending on the amount of traffic and matching performed, there may be too much processing required for a single matching engine 107, in which case, the matching engine will be distributed as exemplified in the embodiment shown in FIG. 1. The distributed system shown in FIG. 1 is also preferable for networks in which different areas have different standards or protocols. The servers 106 may be different from each other and the profiles transition 108 may provide different transitions so that the same common profile in Internet server 109 could be provided to different networks.

Again, Paragraph 0056 of *Fraccaroli* does not state what the Examiner alleges it does. Paragraph 0056 of *Fraccaroli* discusses an embodiment where the matching engine is distributed, or spread across more than one server. Even if *Fraccaroli* discloses bidirectional information exchange between the handsets 102 and the servers 106, and even if the matching engine is distributed, *Fraccaroli* still does not teach or suggest publishing information about one or

**more particular users of respective mobile stations to the communications network.**

As previously pointed out, *Fraccaroli* operates based on a saved matching profile, which is not published and is not associated with a group address. The saved matching profile of *Fraccaroli* is **not** sent from the handset 102 to the server 109 each time the method operates, as it would be if it were published to the communications network, as claimed. Rather, the matching profile of *Fraccaroli* is already present on a server of the communications network.

Paragraph 0055 of *Fraccaroli* states:

At some point in time, HLR 105 provides a request to server 109 for the matching profiles of each user as described above. Preferably, the request from HLR 105 is made as soon as the user is registered in HLR 105. The matching profile (and request profile, including preferences) for the user is read out of server 109 in response to the request, reformatted in profiles transition 108, and stored in server 106 corresponding to the requesting HLR 105. The matching profile of the newly added user is then compared with the respective matching profiles of the other users located in the same location area (which may be a cell, group of cells, or location area less than the area of a cell) as the newly added user...(emphasis added)

Paragraph 0055 of *Fraccaroli* provides the opposite of what the Examiner is alleging *Fraccaroli* discloses, namely that the matching profile for the user is already saved in the server 109 of the communications network.

With regard to *Fraccaroli* and *Torvinen* being non-analogous references, the Examiner seems to allege that *Fraccaroli* is in the field of the Applicants' endeavour because (1) *Fraccaroli* concerns matching people through their mobile stations and that (2) *Fraccaroli* is properly combinable with *Torvinen* because *Fraccaroli* is relied upon for teaching "publishing information about one or more particular users of respective mobile stations to the communication network," and this way, the profile information will be available locally to one or more servers. December 12, 2007 Office Action at 4. At page 3, the Examiner stated that the Applicants' application teaches "such information may be published on behalf of the stations to one or more servers adapted to identify the mobile stations matching the rules." As such, the Examiner appears to be deriving the motivation to combine *Torvinen* and *Fraccaroli* from the Applicants' teaching in the pending

application and using the Applicants' description as a guide to reconstructing the Applicants' invention using the available prior art references. This is a classic case of the impressible use of hindsight. Further, the Examiner seems to admit, at pages 4-5, that he has applied a hindsight analysis because, as the Examiner states, "any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning." Yet, the Examiner has still not provided any motivation found within the cited art for modifying the teachings of *Torvinen* with the teachings of *Fraccaroli*.

Further, with regard to the definition of a "group," it is noted that, as previously argued and as presently claimed, group membership and the rule for defining group membership is dependent, at least in part, on the published information about the users of the mobile stations (*i.e.*, the published information is also published before group creation and is used to facilitate group creation). In contrast, *Fraccaroli* operates based on a saved matching profile, which is not published and is not associated with a group address, and the registration information of the cellular network to which the cellular phones of the users belong. No rules for defining the members of the group are received during the matching process of *Fraccaroli*.

The Examiner states, with reference to *Fraccaroli*, that "two people can form a group." December 12, 2007 Office Action at 4. With this statement, the Examiner has failed to appreciate the meaning of the word "group" as used in the description and the claims of the present application. An appreciation of the technical meaning of the term group can be gained, for example, from the preamble of claim 65, which recites a method of creating and managing a group of mobile stations for a communication session in a communications network, the communication session being one in which users of respective mobile stations communicate with one another. As such, the term "group" refers to a virtual electronic group. Group, as claimed in the present claims, does not include two people physically standing side by side, which is the end result of the method of *Fraccaroli*, which merely provides two people with contact information to contact each other. No group is ever formed in the teachings of *Fraccaroli*, within the meaning given to that term by the present application.

Therefore, even if *Fraccaroli* is properly combinable with *Torvinen*, which Applicants submit is not the case, *Fraccaroli* and *Torvinen* still fail to teach or

suggest each and every feature recited in the independent claims. *Fraccaroli* is not a relevant reference to the claimed subject matter and does not disclose anything material to the patentability of the claimed subject matter.

With regard to the argument under *KSR International Co. v. Teleflex Inc.*, \_\_\_ U.S. \_\_\_, \_\_\_, 2007 WL 1237837, the Examiner states that:

In response to applicant's arguments, the recitation "a method of creating and managing a group of mobile stations for a communication session in a communications network" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. *See In re Hirao*, 535 F.2d 67,190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152,88 USPQ 478, 481 (CCPA 1951).

December 12, 2007 Office Action at 6.

With respect, the Applicants are unsure of how this statement addresses the Examiner's failure to present an "articulated reasoning with some rational underpinnings to support the legal conclusion of obviousness." That is, in the Response to the June 18, 2007 Office Action, Applicants quoted the Examiner's words from the June 18, 2007 Office Action, wherein the Examiner set forth the relevant elements disclosed in the cited art and provided a motivation, albeit a one-sentence motivation, as to why one skilled in the art would make such a combination. In the December 12, 2007 Office Action, the Examiner now states that one of the elements that is disclosed by the prior art is irrelevant as it is merely recited in the preamble. Accordingly, the Examiner has admitted that the only cited element from *Torvinen*, namely **"a method of creating and managing a group of mobile stations for a communication session in a communications network,"** is not relevant to the present claims as that recitation is in the preamble to the present claims. Thus, the Examiner's reliance on *Torvinen* is also irrelevant, and the rejection under 35 U.S.C. § 103(a) is improper.

Moreover, the Examiner has failed to address the substance of Applicants response; namely, that a rejection under 35 U.S.C. § 103(a) and under *KSR International* requires an "articulated reasoning with some rational underpinnings to support the legal conclusion of obviousness" and that articulated reasoning must be

explicit. As stated in under *KSR International*, a mere conclusory statement cannot sustain a determination of obviousness. In the December 12, 2007 Office Action, the Examiner has, essentially, admitted that one of the cited references is irrelevant. Such a statement does not provide the required explicit articulated reasoning to support the combination(s) set forth in the prior Office Action. As such, the Examiner has still failed to properly support the rejection under 35 U.S.C. § 103(a) and under *KSR International*.

Applicants believe that the Examiner's inability to find proper motivation as to why one skilled in the art would modify the teachings of *Torvinen* with the teachings of *Fraccaroli* is expected. As the Applicants previously pointed out, analogous fields in the electrical arts are not broad categories. MPEP § 2141.01(a) V. sets forth that a reference relating to single, in-line memory modules (SIMMs) for industrial use was held not to be analogous prior art for an invention relating to SIMMS in personal computers. *Id.*, citing, *Wang Laboratories, Inc. v. Toshiba Corp.*, 993 F.2d 858 (Fed. Cir. 1993). The system of *Fraccaroli* may not provide notifications to a user for days if no matches occur, which is a condition that entirely fails to meet the needs of the event/location-based services taught by *Torvinen*. In this respect, *Fraccaroli* and *Torvinen* substantially diverge and explicitly teach away from each other. In the present case, where the teachings of the cited art explicitly and significantly diverge, *Torvinen* and *Fraccaroli* cannot possibly be considered analogous art under the law laid out in *Wang Laboratories, Inc. v. Toshiba Corp.*

It is further noted that the Examiner simply groups Claims 103-112 into one large omnibus rejection, at page 21 of the Final Office Action. The Examiner has the burden of establishing a *prima facie* case of obviousness with respect to each of the claims. Claims 103-112 contain variations compared to the other claims, yet the Examiner has made no attempt to properly examine Claims 103-112, as required. For example, Claim 104 very explicitly recites that the first step in the process that the mobile device is configured to perform involves transmitting, to a server adapted to create and manage a group of mobile stations, information to be published to the communications network about one or more particular users of respective mobile stations. *Fraccaroli* does not teach or suggest this feature. As such, the rejection is improper and should be withdrawn.

Claims 65-71, 74, 75, 79-81, 83, 84, 86, 87, 94-100, 103-110, 113, 114 and 116;  
Rejected under 35 U.S.C. § 103(a)

Claims 65-71, 74, 75, 79-81, 83, 84, 86, 87, 94-100, 103-110, 113, 114 and 116 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Torvinen* (U.S. Patent Publication No. 2005/0113123) (hereinafter "*Torvinen*") in view of *Fraccaroli* (U.S. Patent Publication No. 2004/0002348) (hereinafter "*Fraccaroli*"). *Torvinen* is concerned primarily with group formation and with location information. As stated in Applicants' previous reply, *Torvinen* describes a method and system for organizing a group session between members based on their location or proximity and the technical capabilities considered to be necessary to engage in the group session, as determined by the organizing terminal. While *Torvinen* makes brief reference to presence servers, *Torvinen* does not teach or suggest using presence information to dynamically create a group for a group communication session. At page 3 of the Office Action, dated December 4, 2006, the Examiner admits that *Torvinen* does not disclose publishing information about one or more particular users of respective mobile stations to the communications network.

*Fraccaroli*, on the other hand, is concerned with a wireless communications network comprising a server in a central location storing matching profiles for a plurality of users of the network. The user enters his matching profile using a WEB page, and the matching profile is then stored on a server for later use. In the normal course of events, the matching profile need only be entered once (see, for example, Paragraph 0055). Each matching profile corresponds with a respective mobile unit using the same identification information (ID) of the respective mobile unit utilized for carrying out phone calls. The server has a customizable variable matching algorithm and probes the matching profiles corresponding to the respective mobile units in a cellular telephone phone or group of cellular telephone phone for a match when a new cellular unit subscribes into the cell or group of cells. When there is a match of matching profiles, the two persons are advised of each other and they may then initiate a telephone call to contact each other if they wish (see, for example, Paragraph 0057).

There are multiple deficiencies in the Examiner's rejections set forth on pages 3-9 of the Office Action, dated June 18, 2007. That is, the cited art does not disclose what the Examiner states it discloses, *Fraccaroli* is non-analogous art, and even if *Fraccaroli* was combinable with *Torvinen*, such a combination does not



disclose all the elements recited in the claims of the present application, and the Examiner has not properly supported the rejection under the standard set forth in *KSR International Co. v. Teleflex Inc.*, \_\_\_ U.S. \_\_\_, \_\_\_, 2007 WL 1237837 (2007).

With regard to the first point, the Examiner states that *Fraccaroli* teaches, in an analogous art, a method of creating and managing a group of mobile stations for a communication session in a communications network and publishing information about one or more particular users of respective mobile stations to the communications network. The Examiner cites Paragraph 0005 to support this position.

Paragraph 0005 of *Fraccaroli* is reproduced below:

Several methods and systems currently exist for generally matching people having similar interests or other reason for willing to be put in contact with each other. For example, computer dating services match people using a large database having a profile for each one of their customers. Each customer's profile contains personal information such as age, race, marital status, gender, sexual orientation, religion, height, weight, color of eyes and/or hair, smoking habits, education, interests, etc. This matching profile is used to match the customer with others. In addition to their own matching profile, each customer can also submit a request which contains their preferences for a match with the matching profiles of other customers. In response to the request, the computer dating service searches the database for matching profiles which match the preferences in the request and then informs the requesting customer of the selected matches, if any. The match is typically recorded by some sort of a printed report.

With respect, Paragraph 0005 of *Fraccaroli* does not teach or suggest any of what the Examiner states. Paragraph 0005 does not discuss a method of any sort for creating and managing a group of mobile stations for a communication session. Paragraph 0005 neither mentions a communications network, nor discusses publishing information about one or more particular users of respective mobile stations to the communications network. Paragraph 0005 simply recites, at a high level, the workings of a conventional computer matching service. The discussion of Paragraph 0056 set forth above is incorporated herein by reference.

With regard to the second point, it is noted that MPEP § 2141.01(a) states, “[i]n order to rely on a reference as a basis for rejection of an applicant’s invention, the reference must either be in the field of the applicant’s endeavor or, if not, then be reasonably pertinent to the particular problem with which the invention is concerned.”

*Id.*, citing, *In re Oetiker*, 977 F.2d 1443, 1446 (Fed. Cir 1992). Analogous fields in the electrical arts are not broad categories. For example, it has been held that similar, or even identical components, may be used in different manners and that art that relates to a component in one environment may not be used as a prior art reference under 35 U.S.C. § 103(a) in relation to the same type of component used in a different environment. That is, as set forth in MPEP § 2141.01(a) V., a reference relating to single, in-line memory modules (SIMMs) for industrial use was held not to be analogous prior art for an invention relating to SIMMS in personal computers. *Id.*, citing, *Wang Laboratories, Inc. v. Toshiba Corp.*, 993 F.2d 858 (Fed. Cir. 1993).

*Fraccaroli* discloses a matching mechanism, where two people are matched and provided with contact information for each other based on a saved matching profile when they happen to be located in the same cellular cell. *Fraccaroli* does not concern group formation. There would be no motivation for one skilled in the art reviewing the teachings of *Torvinen*, which concerns a method and system for organizing a group session between members based on their location or proximity and the technical capabilities considered to be necessary to engage in the group session as determined by the organizing terminal, to modify the teachings of *Torvinen* with the teachings of *Fraccaroli*, which is a largely manual process for matching two individuals (not a group of individuals) and requiring the recipients to initiate contact with other. *Torvinen* is concerned with allowing the creator of a group or organizer of an event to flexibly create event/location-based services (Paragraph 0030). *Fraccaroli* does not meet this objective at all. Rather, in *Fraccaroli*, the HLR server of a cellular network may provide information to two subscribers allowing them to contact each other if it determined that a match exists, based on their locations and a previously-entered matching profile. Realistically, the system of *Fraccaroli* may not provide notifications to a user for days if no matches occur, which is a condition that entirely fails to meet the needs of the event/location-based services taught by *Torvinen*. In this respect, *Fraccaroli* and *Torvinen* substantially diverge and explicitly teach away from each other. If identical components used in different environments, e.g., SIMMs used in industrial setting vs. SIMMS used in personal computers, are considered “non-analogous,” it is without question that, based on the foregoing, *Fraccaroli* and *Torvinen* are non-analogous art.

Further, even if the cited art was combinable, *Fraccaroli* fails to cure the deficiencies of *Torvinen*. *Fraccaroli* concerns matching individuals based on a

previously-entered, saved profile and then notifying those individuals of the match by providing information that allows the individuals to establish contact between themselves. In this sense, the method of *Fraccaroli* is akin to the automated matching (e.g., dating) service mentioned at Paragraph 0005, which aims to match people in pairs – not create groups having multiple members.

This is in direct contrast to the presently claimed subject matter, which recites a method comprising the steps of **publishing information about one or more particular users of respective mobile stations to the communications network, and receiving at least one rule for defining a member of a group.** The at least one rule is **defined by criteria comprising published information about respective users of mobile stations** and is received **in association with a group address.** In other words, as presently claimed, group membership and the rule for defining group membership is dependent, at least in part, on the published information about the users of the mobile stations (*i.e.*, the published information is also published before group creation and is used to facilitate group creation). In contrast, *Fraccaroli* operates based on a saved matching profile, which is not published and is not associated with a group address, and the registration information of the cellular network to which the cellular phones of the users belong. No rules for defining the members of the group are received during the matching process of *Fraccaroli*. Therefore, even if *Fraccaroli* is properly combinable with *Torvinen*, which Applicants submit is not the case, *Fraccaroli* and *Torvinen* still fail to teach or suggest each and every feature recited in Claim 65 of the present invention.

Further, with regard to the determination of obviousness under 35 U.S.C. § 103, the Supreme Court has recently stated that:

Although common sense directs one to look with care at a patent application that claims as innovation the combination of two known devices according to their established functions, *it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.* This is so because inventions in most, if not all, instances rely on building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known. (Emphasis added.)

*KSR International Co. v. Teleflex Inc.*, \_\_\_ U.S. \_\_\_, \_\_\_, 2007 WL 1237837 (2007), (Slip Opinion at 14-15). In addition, the Supreme Court also noted that:

Often, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, *this analysis should be made explicit*. See *In re Kahn*, 441 F.3d 977, 988 (Fed Cir. 2006) (“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, *there must be some articulated reasoning with some rational underpinnings to support the legal conclusion of obviousness*”). (Emphasis added.)

*Id.*, at \_\_\_\_ (Slip Opinion at 14). It is noted that the Supreme Court included an extended discussion reciting the nature of the inventions disclosed in the prior art and then several paragraphs identifying the rationale and reasons that the cited art could be combined and why one skilled in the art would make such a combination. *Id.*, at \_\_\_\_ (Slip Opinion at 3-6, 20-22).

With regard to combining known elements of an invention, the Supreme Court further stated that, “[A] patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art.” *Id.*, at \_\_\_\_ (Slip Opinion at 14). This holding comports with *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), which held that although some of the cited references may individually have some of the claimed inventions’ features, “one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to depreciate the claimed invention.” *Id.* at 1075. Instead, to reach the proper conclusion under § 103:

the decision maker must step backward in time and into the shoes worn by [a person having ordinary skill in the art] when the invention was unknown and just before it was made. In light of *all* the evidence, the decision maker must then determine whether...the claimed invention as a whole would have been obvious at *that* time to *that* person.

*Id.* at 1073-74.

The Examiner has not properly supported the rejection under 35 U.S.C. § 103(a) and under *KSR International*. At multiple locations in the Office Action, the Examiner identifies a first element in *Torvinen* and a second element in *Fraccaroli* and then states that these elements may be combined. For example, at page 7 of the December 12, 2007 Office Action, the Examiner states that, “*Torvinen*

teaches a **method of creating and managing a group of mobile stations for a communication session in a communications network ...**” (emphasis added). On page 8 of the of the December 12, 2007 Office Action, the Examiner states that, “*Fraccaroli teaches ... publishing information about one or more particular users of respective mobile stations to the communications network*” (emphasis added). The Examiner then concluded that, “it would be obvious to one of ordinary skill in the art at the time of invention to use **a method of creating and managing a group of mobile stations for a communication session in a communications network publishing information about one or more particular users of respective mobile stations to the communications network.**” (emphasis added). Thus, the Examiner has merely identified selected elements, e.g., [X] and [Y], from the cited art, and stated that, “it would have been obvious to one of ordinary skill in the art at the time the invention was made to use [X]/[Y].” Each specific rejection contains a similar conclusory sentence.

Applicants believe that such single conclusory sentences for each detailed rejection are not sufficient to qualify as an “articulated reasoning with some rational underpinnings to support the legal conclusion of obviousness” and that the Examiner has failed to make the analysis explicit. Such an explicit analysis would be similar to the analysis provided by the Supreme Court in *KSR International*, which noted the elements in question and detailed how one skilled in the art would assemble, and even alter, these elements to arrive at the invention recited in the patent at issue. Moreover, the Court in *KSR International* specifically states that a mere conclusory statement cannot sustain a determination of obviousness.

Moreover, based on the description provided above, it can be seen that not only can these reference not be combined, *Torvinen* and *Fraccaroli* explicitly teach away from each other. Thus, there can be no reasonable expectation of success for one skilled in the art to use the teachings of *Torvinen* and *Fraccaroli* to arrive at the presently claimed subject matter. It is submitted that Claim 65 recites patentable subject matter. Independent Claims 94, 103, 104, 113, and 114 were also rejected on the same basis and are patentable for the same reasons. The remaining claims are dependent on Claims 65, 94, 103, 104, 113, and 114 and are patentable for the same reasons.

CONCLUSION

In view of the above remarks, Applicants respectfully submit that the application is in proper form for issuance of a Notice of Allowance, and such action is requested at an early date.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. C. Jenkins', with a long horizontal flourish extending to the right.

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